

## **B.) REMARKS**

The Office Action mailed November 13, 2006 has been received and carefully considered. Upon entry of the present amendments, claims 1-26 are pending. In the Office Action, claims 1, 2 and 17 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 2-7, 33-35 and 44-46 of copending Application No. 10/822,492 (US 2005/0223724); Claims 3-16 and 18-26 are objected to as being dependant upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Examiner Interview***

Prior to addressing the particular issues raised in the Office action, Ms. Endler, Applicant's undersigned representative, wishes to thank Examiner Jiang for the helpful and productive Examiner Interview conducted by telephone on February 12, 2007. Ms. Endler and Examiner Jiang discussed the non-final Office Action and rejections issued therein and came to an agreement regarding the best resolution to further the prosecution of the Application. The Terminal Disclaimer submitted concurrently herewith the remarks, are consistent with the understanding reached during the Interview. If for any reason this Amendment and Response is insufficient to place this application in condition for immediate allowance, Examiner Jiang is invited to contact Ms. Endler at the telephone number provided below.

### **Non-Statutory Double Patenting**

The Examiner provisionally rejected claims 1, 2 and 17 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 2-7, 33-35 and 44-46 of copending Application No. 10/822,492 (US 2005/0223724).

Specifically, the Examiner stated:

2. Claims 1, 2 and 17 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 2-7, 33-35 and 44-46 of copending Application No. 10/822,492 (US 2005/0223724). Although the conflicting claims are not identical, they are not patentably distinct from each other because the current claims and the patented claims are directed to the same invention and '492 claims the limitations in current application plus the monitoring the operation. The detail of variable speed drive is well known in the prior art (e.g., EP 1 271 067).

This is a ~~provisional~~ obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Applicant respectfully traverses the provisional rejection of claims 1, 2 and 17 on nonstatutory double patenting grounds.

Applicant is submitting a Terminal Disclaimer with this Response, thereby rendering the provisional double patenting rejection against claims 1, 2 and 17 moot. In view of the above, Applicant submits that claims 1, 2 and 17 are no longer subject to a provisional obviousness-type double patenting rejection and is therefore believed to be allowable.

**Allowable Subject Matter**

The Examiner objected to claims 3-16 and 18-26 as being dependent upon a rejected base claim, but indicated that the claims would be allowable, if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant appreciates the Examiner's indication of allowable subject matter, but believes that all of the claims are allowable as depending from what are believed to be allowable claims 1, 2 and 17 for the reasons given above.

### CONCLUSION

In view of at least the above reasons, Applicants respectfully requests reconsideration of the Application and withdrawal of the outstanding objections and rejections. As a result of the amendments and remarks presented herein, Applicants respectfully submits that claims 1-26 are allowable. If the Examiner believes that prosecution of this Application could be expedited by a telephone conference, the Examiner is encouraged to contact the Applicants' undersigned representative.

This Amendment/Response has been filed within three months of the mailing date of the Office Action and it is believed that the only fee due with the filing of this paper is \$130 for the Terminal Disclaimer. In the event that Applicants are mistaken in their calculations, the Commissioner is authorized to deduct any fees determined by the Patent Office to be due from, or credit any overpayment to, the undersigned's Deposit Account No. 50-1059.

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Respectfully submitted,

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